

UNITED STATES DISTRICT COURT

for the
Western District of Washington

FILED	LODGED
RECEIVED	
Nov 22, 2021	
CLERK U.S. DISTRICT COURT	
WESTERN DISTRICT OF WASHINGTON AT TACOMA	
BY	DEPUTY

In the Matter of the Search of
(Briefly describe the property to be searched
or identify the person by name and address)

Microsoft Account: scottawhittington@live.com, more fully
described in Attachment A-1

Case No. 3:21-mj-05198-01

SEARCH AND SEIZURE WARRANT

To: Any authorized law enforcement officer

An application by a federal law enforcement officer or an attorney for the government requests the search of the following person or property located in the Western District of Washington
(identify the person or describe the property to be searched and give its location):

Microsoft Account: scottawhittington@live.com, more fully described in Attachment A-1

I find that the affidavit(s), or any recorded testimony, establish probable cause to search and seize the person or property described above, and that such search will reveal (identify the person or describe the property to be seized):

See Attachment B-1 for list of information to be seized, incorporated herein by reference.

YOU ARE COMMANDED to execute this warrant on or before October 8, 2021 (not to exceed 14 days)

☐ in the daytime 6:00 a.m. to 10:00 p.m. ☒ at any time in the day or night because good cause has been established.

Unless delayed notice is authorized below, you must give a copy of the warrant and a receipt for the property taken to the person from whom, or from whose premises, the property was taken, or leave the copy and receipt at the place where the property was taken.

The officer executing this warrant, or an officer present during the execution of the warrant, must prepare an inventory as required by law and promptly return this warrant and inventory to any U.S. Magistrate Judge in West. Dist. of Washington
(United States Magistrate Judge)

☐ Pursuant to 18 U.S.C. § 3103a(b), I find that immediate notification may have an adverse result listed in 18 U.S.C. § 2705 (except for delay of trial), and authorize the officer executing this warrant to delay notice to the person who, or whose property, will be searched or seized (check the appropriate box)

☐ for days (not to exceed 30) ☐ until, the facts justifying, the later specific date of

1:36 PM

Date and time issued: 09/24/2021 1:30 pm

Theresa L. Fricke

Judge's signature

City and state: Tacoma, Washington

Theresa L. Fricke, United States Magistrate Judge

Printed name and title

Return

Case No.: 3:21-mj-05198-01	Date and time warrant executed: September 24, 2021	Copy of warrant and inventory left with: Microsoft Corp. USA via Law Enforcement Portal
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Inventory made in the presence of :
Inventory made in association with Special Agent Benjamin George, Computer Investigative Specialist.

Inventory of the property taken and name of any person(s) seized:

-Six PDF files transmitting the warrant, non-disclosure order, original transmittal letter from Special Agent Joseph B. Tichy, declaration of custodian, information about the nature of the response, and Microsoft's Guidelines for Law Enforcement.

-Current and preserved files, including account reports, contacts, mailbox creation date, IP history, and user device information. Total file size of the decrypted folders was 2.63 GB.

Certification

I declare under penalty of perjury that this inventory is correct and was returned along with the original warrant to the designated judge.

Date: November 18, 2021

Received: 11-18-2021

Stuchin
Mag. Judge



Executing officer's signature

Joseph B. Tichy, Special Agent IRS-CI

Printed name and title

ATTACHMENT A-1

The electronically stored data, information, and communications contained in, related to, and associated with, including all preserved data associated with, the following account:

scottawhittington@live.com

as well as all other subscriber and log records associated with the account, which are located at premises owned, maintained, controlled, or operated by Microsoft Corporation USA, an electronic communication service provider located at 1 Microsoft Way, Redmond, Washington 98052.

ATTACHMENT B-1

Particular Things to be Seized

I. Information to be disclosed by Microsoft Corporation:

To the extent that the information described in Attachment A-1 is within the possession, custody, or control of Microsoft Corporation, USA ("Microsoft"), including any data, messages, records, files, logs, or information that has been deleted but is still available to Microsoft, or has been preserved pursuant to a request made under Title 18, United States Code, Section 2703(f), Microsoft is required to disclose the following information to the government for each account or identifier listed in Attachment A-1:

- a. The contents of all emails associated with the account from January 1, 2015 to present, including stored or preserved copies of emails sent to and from the account, draft emails, the source and destination addresses associated with each email, the date and time at which each email was sent, attachments to the emails, and the size and length of each email.
- b. All subscriber records associated with the specified account, including 1) names, email addresses, and screen names; 2) physical addresses; 3) records of session times and durations; 4) length of service (including start date) and types of services utilized; 5) telephone or instrument number or other subscriber number or identity, including any temporarily assigned network address such as IP address, media access card addresses, or any other unique device identifiers recorded by Microsoft in relation to the account; 6) account log files (login IP address, account activation IP address, and IP address history); 7) detailed billing records/logs; 8) means and source of payment; and 9) lists of all related accounts.
- c. All contact lists.
- d. All Office 365 Home and Office 365 Personal data.
- e. All web searching and browsing history.
- f. All account history, including any records of communications between Microsoft and any other person about issues relating to the account, such as technical problems, billing inquiries, or complaints from other users about the specified account. This to include records of contacts between the subscriber and the

provider's support services, as well as records of any actions taken by the provider or subscriber in connection with the service.

Microsoft is hereby ordered to disclose the above information to the government within fourteen days of the issuance of this warrant.

II. Information to be Seized:

All information described above in Section I that constitutes fruits, contraband, evidence and instrumentalities of violations of Title 18, United States Code, Sections 371 (Conspiracy), and Title 26, United States Code, Sections 7201 (Tax Evasion), 7203 (Failure to File), 7206 (False Offers in Compromise), and 7212 (Corrupt Interference) including, for each account or identifier listed on Attachment A-1, and occurring on or after January 1, 2015, information pertaining to the following matters:

- a. Evidence related to conspiracy or agreement to defraud the Internal Revenue Service ("IRS") or federal government.
- b. Evidence of tax fraud, tax evasion, failing to file tax returns, impeding the due administration of the Internal Revenue Code, or filing false or fraudulent documents with the IRS.
- c. Evidence related to the formation, registration, operation, continuation, or existence of Seismic Support Services, LLC ("Seismic Support Services").
- d. Evidence related to the formation, registration, operation, continuation, or existence of Seismic Design Services, LLC ("Seismic Design Services").
- e. Evidence of communications between Scott Whittington ("Whittington") and Peter Gibbons, or any representative of the Law Offices of Peter Gibbons, related to professional services, taxation, offers in compromise, the formation or operation of any business, the IRS, Tomarco Contractor Specialties, Inc. (Tomarco), banking or other financial matter, or divorce proceedings. Such evidence includes all communication with email address: "lawdr1@lawdr.us."
- f. Evidence of communications between Whittington and Joseph Banister related to professional services, taxation, offers in compromise, the formation or operation of any business, the IRS, Tomarco, banking or other financial matter, or divorce

proceedings. Such evidence includes all communication with email address: "joe@nnp.net."

- g. Evidence of communications between Whittington and Eugene (Gene) Kernan or any representative of The American Republic or the National Justice Center, related to professional services, taxation, the formation or operation of any business, tax program, the IRS, Tomarco, banking or other financial matter, or divorce proceedings.
- h. Evidence of communications between Whittington and Michael (Mike) Garrison, related to labor or services, taxation, the formation or operation of any business, the IRS, Tomarco, banking, or other financial matter. Such evidence includes all communication with email address: "libertyordeath@startmail.com."
- i. Evidence of communication between Whittington and Joseph Hendrix or other representative of Tomarco, about services performed, taxation, the IRS, payment, earned income, billing, Seismic Support Services or Seismic Design Services. Such evidence includes all communication with email address: "jhendrix@tomarco.com."
- j. Evidence of communications between Whittington and General Business Services, LLC, related to business services, advice, taxation, the IRS, formation or operation of any entity, completion of government forms, banking, or other financial matter. Such evidence includes all communication with email address: "gbs@general-business-services.com."
- k. Evidence concerning the creation of the following email accounts:
 - 1. seismicdservices@hotmail.com
 - 2. scottw1776@protonmail.ch
 - 3. scottw52964@gmail.com
- l. Evidence of communication between Whittington and the following email accounts:
 - 1. seismicdservices@hotmail.com
 - 2. scottw1776@protonmail.ch
 - 3. scottw52964@gmail.com
- m. Evidence related to Whittington's knowledge of laws and tax matters, including state and federal laws, tax law, procedure, the IRS, US Tax Court, forms, and instructions.

- n. Evidence related to payment for legal, accounting, tax, financial, or general labor services.
- o. Evidence related to offers in compromise to resolve tax issues, including communications, forms, documents, and notes.
- p. Evidence related to business plans, strategies, and the anticipated success, failure, or general validity thereof.
- q. Evidence related to tax collection activity, including liens, levies, garnishments, or other enforcement activity.
- r. Evidence related to summons activity, including IRS summonses for information.
- s. Evidence related to money, tax, payment, income, expenses, invoices, wages, or salary.
- t. Evidence related to the opening, closing, or maintenance of post office boxes or physical addresses for any entity.
- u. Evidence related to tax shelters, tax plans, schemes, strategies, programs, or promotions, including instructions, promotional materials, representations, testimonials, guidance, advice, forms, or documents.
- v. Evidence related to the preparation of legal documents, including pleadings, court papers, petitions, summonses, complaints, answers, interrogatories, or discovery.
- w. Evidence related to beliefs, opinions, or impressions concerning the federal government, IRS, or taxes.
- x. Evidence related to banking, financial transactions, establishing bank accounts, complaints or issues with banks, and payment holds.
- y. Evidence related to correspondence with the IRS, including letters, emails, notes, draft or completed forms, or other correspondence.

- 1 z. Evidence relating to efforts to evade, conceal, disguise, or defeat the IRS, federal
2 government, law enforcement, or other government agency or entity.
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4 aa. Evidence of how and when the email account was accessed or used, to determine
5 the geographic and chronological context of account access, use, and events
6 relating to the crime under investigation and to the email account owner.
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8 bb. Evidence indicating the account owner's state of mind as it relates to the crimes
9 under investigation.
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11 cc. Evidence that serves to identify any person who uses or accesses the account or
12 who exercised in any way any dominion or control over the account, including
13 records that help reveal the whereabouts of such person(s).
- 14
15 dd. Evidence identifying the Android, Apple, or other electronic devices linked to the
16 account, including make and model, IMEI or other unique numbers identifying
17 any device.
- 18
19 ee. All subscriber information associated with the specified account, including name,
20 address, local and long distance telephone connection records, or records of
21 session times and durations, length of service (including start date) and types of
22 service utilized, telephone or instrument number or other subscriber number or
23 identity, including any temporarily assigned network address, and means and
24 source of payment for such service) including any credit card or bank account
25 number.
- 26
27 ff. Any records of communications between the email service provider, and any
28 person about issues relating to the account, such as technical problems, billing
inquiries, or complaints from other users about the specified account. This to
include records of contacts between the subscriber and the provider's support
services, as well as records of any actions taken by the provider or subscriber as a
result of the communications.
- gg. Any address lists, contact lists or other lists associated with the specified account
that may identify co-conspirators or victims.
- hh. Any and all other log records, including IP address captures, associated with the
specified account.

1 This warrant authorizes a review of electronically stored information, communications,
2 other records, and information disclosed pursuant to this warrant to locate evidence,
3 fruits, and instrumentalities described in this warrant. The review of this electronic data
4 may be conducted by any government personnel assisting in the investigation, who may
5 include, in addition to law enforcement officers and agents, attorneys for the government,
6 attorney support staff, and technical experts. Pursuant to this warrant, the IRS may
7 deliver a complete copy of the disclosed electronic data to the custody and control of
8 attorneys for the government and their support staff for their independent review.
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**CERTIFICATE OF AUTHENTICITY OF DOMESTIC
RECORDS PURSUANT TO FEDERAL RULES OF
EVIDENCE 902(11) AND 902(13)**

I, _____, attest, under penalties of perjury by the laws of the United States of America pursuant to 28 U.S.C. § 1746, that the information contained in this certification is true and correct. I am employed by **Microsoft** (“Provider”), and my title is _____. I am qualified to authenticate the records attached hereto because I am familiar with how the records were created, managed, stored, and retrieved. I state that the records attached hereto are true duplicates of the original records in the custody of Provider. The attached records consist of

[GENERALLY DESCRIBE RECORDS (pages/CDs/megabytes)]. I further state that:

a. all records attached to this certificate were made at or near the time of the occurrence of the matter set forth by, or from information transmitted by, a person with knowledge of those matters, they were kept in the ordinary course of the regularly conducted business activity of Provider, and they were made by Provider as a regular practice; and

b. such records were generated by Provider’s electronic process or system that produces an accurate result, to wit:

1 1. the records were copied from electronic device(s), storage
2 medium(s), or file(s) in the custody of Provider in a manner to ensure that they are true
3
4 duplicates of the original records; and

5 2. the process or system is regularly verified by Provider, and at all
6 times pertinent to the records certified here the process and system functioned properly
7
8 and normally.

9 I further state that this certification is intended to satisfy Rules 902(11) and
10 902(13) of the Federal Rules of Evidence.
11
12
13

14 _____
Date

Signature